



HONORABLE CHRIS VAN HOLLEN
CHAIRMAN

May 2, 2008

Thomasenia Duncan, Esq.
General Counsel
Federal Election Commission
999 E Street, N.W.
Washington, D.C. 20463

MUR # 6013

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FEDERAL ELECTION
COMMISSION
OFFICE OF GENERAL
COUNSEL

2008 MAY 15 P 2:59

Re: Complaint against Peter Teahen; Friends of Peter Teahen; and Teahen Funeral Home, Inc.

Dear Ms. Duncan,

I write this letter to file a complaint pursuant to 2 U.S.C. § 437g(a)(1) against Peter Teahen, a candidate for 2nd Congressional District in the state of Iowa; Friends of Peter Teahen; and Teahen Funeral Home, Inc.

The record shows that Teahen is knowingly and willfully violating the Federal Election Campaign Act by illegally using his company's corporate treasury funds to influence his election. Teahen has illegally coordinated television advertisements sponsored by Teahen Funeral Home, Inc. that feature him and are clearly intended to influence his election. These advertisements show Teahen speaking directly to the camera for the full amount of the advertisement. They are directed to Iowa voters, and they have run within 90 days of Iowa's June 3, 2008, congressional primary. The television advertisements represent a clear violation of federal law. The Commission should act immediately to investigate this matter and to enjoin future flagrant violations of law.

THE FACTS

On or before March 31, 2008, Teahen Funeral Home, Inc. began to air television advertisements that were illegally coordinated with congressional candidate Peter Teahen. Teahen is President and Funeral Director of Teahen Funeral Home, Inc.

The transcript of one of the television advertisements that is currently airing in Iowa's 2nd Congressional District is as follows:

My father served in the Navy and like many veterans he didn't talk about his military experience. But we all knew how much he

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loved his country. Dad had a big flag pole in our front yard and I used to help him raise the flag. Now when I see a flag, I think of Dad and all the men and women who sacrifice their lives for the sake of freedom. I'm Peter Teahen and I'm proud to be an American. Teahen Funeral Home: Life ends, but memories live on.

The advertisement features multiple images of Teahen and the American flag. At the end of the advertisement, a full-screen image of Teahen appears on the screen as he identifies himself and states that he is "proud to be an American."

ARGUMENT

Federal candidates are prohibited from knowingly accepting or receiving corporate contributions. See 11 C.F.R. § 114.2(d). Any payment for a coordinated communication is considered an in-kind contribution to the candidate with whom it is coordinated. See 11 C.F.R. § 109.21(b)(1). A candidate is therefore prohibited from coordinating with a corporation in the production and distribution of television advertisements. Specifically, if a public communication refers to a clearly identified House candidate, is distributed in the candidate's jurisdiction within 90 days before the candidate's election, is paid for by a corporation, and if the candidate or his agents have been materially involved in decisions related to the communication's content, then the costs of the communications are considered illegal contributions to the candidate's campaign. See 11 C.F.R. § 109.21(c)(4), (d).

The advertisements sponsored by Teahen Funeral Home, Inc. are a clear case of coordination under Commission rules. See 11 C.F.R. § 109.21(c)-(d). The advertisements are public communications that clearly refer to Teahen, who is a candidate for federal office. See *id.* § 109.21(c)(4)(i). They have been publicly distributed in Teahen's district within 90 days of the June 3 Iowa primary. See *id.* Finally, because Teahen appears in the advertisements and is the President of the corporation that paid for the advertisements, there can be no question that he was materially involved in decisions regarding their content. See 11 C.F.R. § 109.21(d)(2); see also FEC Adv. Op. 2003-25 ("Given the importance of and potential campaign implications for each public appearance by a Federal candidate, it is highly implausible that a Federal candidate would appear in a communication without being materially involved in one or more of the listed conditions regarding the communication."). By coordinating with Teahen Funeral Home, Inc. in the production of the television advertisements, Teahen has accepted illegal corporate contributions to his campaign.

Assuming the advertisements continue to air within 30 days of Teahen's June 3 election, they would be considered electioneering communications under 11 C.F.R. § 100.29. Although corporations are permitted to make electioneering communications in



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certain circumstances, such communications are permitted only if they can be reasonably interpreted as something other than an appeal to vote for or against a clearly identified Federal candidate, and if they meet the requirements of 11 C.F.R. § 114.15(a). In order to fall within the Commission's safe harbor guidelines, the electioneering communication must either propose a commercial transaction or focus on a legislative, executive or judicial matter or issue. See 11 C.F.R. § 114.15(b)(3). The advertisements paid for by Teahen Funeral Home, Inc. neither propose a commercial transaction nor focus on a legislative, executive or judicial matter or issue. Though they are sponsored and paid for by a commercial entity, they do not, in fact, propose any commercial transaction; these communications are not "advertising" anything commercial at all. Airing just weeks before an election, the advertisements cannot reasonably be interpreted as anything other than an appeal to vote for Peter Teahen. Accordingly, even if the advertisements continue to run within 30 days of Teahen's election, they would not be considered a permissible corporate disbursement under 11 C.F.R. § 114.15. See 11 C.F.R. § 114.14(a)(1).

Though Teahen and his campaign would be accepting an illegal corporate contribution even if the communications were in fact legitimate advertisements for the funeral home, the facts indicate that they are not. The corporation paying for the advertisement is not mentioned until the last few seconds of the advertisement quoted above, when its name is mentioned. Until then, the advertisement consists solely of Mr. Teahen, a congressional candidate, speaking directly to camera about his patriotism. The circumstances strongly indicate that this advertisement was crafted by Teahen to aid his congressional campaign, and was a knowing and willful violation of federal election law.

I request that the Commission investigate immediately the violations presented herein, and that the respondents be enjoined from further violations and be fined the maximum amount permitted by law. Because the facts support a knowing and willful violation of federal election law, the Commission should also refer this matter to the Department of Justice for criminal prosecution, pursuant to 2 U.S.C. § 437g(a)(5)(C).

Sincerely,

Dorian R. Walcott



SUBSCRIBED AND SWORN to before me this 15 day of May, 2008.

William S. Simon
Notary Public

My Commission Expires:

William S. Simon
Notary Public, District of Columbia
My Commission Expires 12/31/2012

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